

AMENDED IN SENATE MAY 24, 2004

SENATE BILL

No. 1893

Introduced by Senator Burton

March 3, 2004

An act to amend Sections 21625, 21626, 21626.5, 21627, 21628, 21628.5, 21630, 21631, 21640, 21641, 21642, and 21647 of, to add Sections 21628.2, 21628.3, 21632, 21636.7, and 21636.8 to, and to repeal and add Section 21628.1 of, the Business and Professions Code, and to amend Sections 21208, 21300, 21300.1, and 21301 of, and to add Sections 21301.2 and 21301.3 to, the Financial Code, relating to personal property, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1893, as amended, Burton. Dealers and pawnbrokers: regulation.

Existing law generally requires a pawnbroker, secondhand dealer, coin dealer, and business machine dealer, as defined, to report specified transactions to the local law enforcement agency where their business is located. Under existing law, upon implementation of an electronic reporting system by the Department of Justice, secondhand dealers and coin dealers are generally required to report this information electronically. Existing law requires that a local law enforcement agency issue a license to engage in the business of a secondhand dealer or pawnbroker to an applicant who meets designated criteria and allows the assessment of a licensure fee. Existing law makes a knowing violation of the provisions regulating these dealers and pawnbrokers a crime.

This bill would generally require on and after January 1, 2008, that a secondhand dealer, coin dealer, business machine dealer, and

pawnbroker make their reports electronically. The bill would require the Attorney General, in consultation with local law enforcement agencies and others, to develop a statewide electronic data reporting system that would be operational on or before January 1, 2007.

The bill would extend the licensure provisions to coin dealers and business machine dealers and would also extend the licensure and reporting requirements imposed on dealers and pawnbrokers to persons who advertise as a dealer or pawnbroker. The bill would make it a misdemeanor to advertise as a dealer or pawnbroker without being licensed to engage in those businesses and would also make engaging in the business of a dealer or pawnbroker without a license subject to the assessment of a civil penalty.

The bill would require a payment of a specified licensure fee by dealers and pawnbrokers and would require that this revenue be deposited into the Electronic Data Reporting System Fund, which would be created by the bill. The bill would ~~continuously appropriate~~ *make the revenue in the fund available to the Attorney General upon appropriation by the Legislature in the annual Budget Act to implement the electronic data reporting system and to reimburse local licensing authorities for license processing activities.* ~~Because the revenue in the fund would be continuously appropriated for this purpose, the bill would make an appropriation.~~

Because the bill would increase the number of persons subject to licensure by a local law enforcement agency, thereby increasing the duties of a local agency, and would make additional activities subject to criminal prosecution, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.



Vote: majority. Appropriation: ~~yes~~—no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 21625 of the Business and Professions Code is amended to read:

21625. It is the intent of the Legislature in enacting this article to curtail the dissemination of stolen property, to facilitate the rapid recovery of stolen property, and to aid the State Board of Equalization to detect possible sales tax evasion by the implementation, deployment, and maintenance of a uniform, statewide, state-administered electronic data reporting system that records reportable transactions of persons whose business includes the buying, selling, trading, auctioning, or taking in pawn of tangible personal property.

Further, it is the intent of the Legislature in enacting this article to require all persons or entities whose business includes the buying, selling, trading, auctioning, or taking in pawn of tangible personal property to timely report those transactions to the Department of Justice through the electronic data reporting system, unless the property or the transaction is specifically exempt herein, for the purpose of correlating these reports with other reports of city, county, city and county, and state law enforcement agencies and further utilizing the services of the Department of Justice to aid in tracing and recovering stolen property.

Further, it is the intent of the Legislature that the electronic data reporting system be operated and maintained in a manner in which all city, county, city and county, and state law enforcement agencies may timely retrieve reportable transactions and may enter reports of all stolen, embezzled, or lost property in a format compatible with the requirements of this article.

Further, it is the intent of the Legislature that the uniform electronic data reporting system be funded exclusively by the assessment of state license fees paid by a person whose business includes the buying, selling, trading, auctioning, or taking in pawn of tangible personal property, and that the electronic data reporting system be operated either by the Department of Justice or a third-party vendor under contract with the state, in a manner that

1 facilitates the rapid recovery of stolen or embezzled property and
2 to safeguard the privacy protections of consumers and businesses
3 provided for under state and federal law.

4 The Legislature finds and declares that this article shall not be
5 superseded or supplanted by the provisions of any ordinance or
6 charter of any city, county, or city and county.

7 ~~SEC. 2.—Section 21626 of the Business and Professions Code~~
8 ~~is amended to read:~~

9 ~~21626. (a) A “secondhand dealer” means and includes any~~
10 ~~person, firm, partnership, or corporation that is required by the~~
11 ~~local agency to obtain a license to operate as a secondhand dealer~~
12 ~~or whose business includes buying, selling, trading, taking in~~
13 ~~pawn, accepting for sale on consignment, accepting for~~
14 ~~auctioning, or auctioning secondhand tangible personal property.~~

15 ~~(b) A “coin dealer” means any person, firm, partnership, or~~
16 ~~corporation whose business is the buying, selling, and trading of~~
17 ~~coins, monetized bullion, or commercial grade ingots of gold, or~~
18 ~~silver, or other precious metals.~~

19 ~~(c) A “business machine dealer” is a person, firm, partnership,~~
20 ~~or corporation whose business includes purchasing, or accepting~~
21 ~~in trade or for sale on consignment, from an individual a “business~~
22 ~~machine” as described in Section 21627.~~

23 ~~(d) A “local agency” means a city, county, or city and county.~~
24

25 *SEC. 2. Section 21626 of the Business and Professions Code*
26 *is amended to read:*

27 21626. (a) A “secondhand dealer,” as used in this article,
28 dealer” means and includes any person, ~~eo~~partnership, firm,
29 partnership, or corporation *that is required by the local agency to*
30 *obtain a license to operate as a secondhand dealer* or whose
31 business includes buying, selling, trading, taking in pawn,
32 accepting for sale on consignment, accepting for auctioning, or
33 auctioning secondhand tangible personal property. A
34 “secondhand dealer” ~~does not include a “coin dealer” or~~
35 ~~participants at gun shows or events, as defined in Section 178.100~~
36 ~~of Title 27 of the Code of Federal Regulations, or its successor,~~
37 ~~who are not required to be licensed pursuant to Section 12071 of~~
38 ~~the Penal Code, who are acting in compliance with the~~
39 ~~requirements of Section 12070 and subdivision (d) of Section~~
40 ~~12072 of the Penal Code, and who are not a “Gun Show Trader,”~~

1 ~~as described in paragraph (5) of subdivision (b) of Section 12070~~
2 ~~of the Penal Code.~~

3 ~~(b) As used in this section, a~~ A “coin dealer” means any
4 person, firm, partnership, or corporation whose principal business
5 is the buying, selling, and trading of coins, monetized bullion, or
6 commercial grade ingots of gold, ~~or~~ silver, or other precious
7 metals.

8 (c) A “business machine dealer” is a person, firm, partnership,
9 or corporation whose business includes purchasing, or accepting
10 in trade or for sale on consignment, from an individual a “business
11 machine” as described in Section 21627.

12 (d) A “local agency” means a city, county, or city and county.

13 SEC. 3. Section 21626.5 of the Business and Professions
14 Code is amended to read:

15 21626.5. “Secondhand dealer,” as used in this article, does
16 not include any of the following:

17 (a) Any person who performs the services of an auctioneer for
18 a fee or salary.

19 (b) Any person whose business is limited to the reconditioning
20 and selling of major household appliances, provided all the
21 following conditions are met:

22 (1) The person does not trade, take in pawn, accept for drop-off,
23 accept as a trade-in, accept for sale on consignment, accept for
24 auction, auction, or buy, except in bulk, the appliances.

25 (2) The person does not perform repair services for owners of
26 appliances unless the appliance was purchased from the person.

27 (3) The person has never been convicted of the crime of
28 attempting to receive or receiving stolen property or any other
29 theft-related crime.

30 (c) A public charity or charitable organization that receives
31 secondhand tangible personal property as a nonmonetary
32 donation.

33 (d) Participants at guns shows or events, as defined in Section
34 478.100 of Title 27 of the Code of Federal Regulations, or its
35 successor, who are not required to be licensed pursuant to Section
36 12071 of the Penal Code, who are acting in compliance with the
37 requirements of Section 12070 and subdivision (d) of Section
38 12072 of the Penal Code, and who are not a “gun show trader” as
39 described in paragraph (5) of subdivision (b) of Section 12070 of
40 the Penal Code.

1 SEC. 4. Section 21627 of the Business and Professions Code
2 is amended to read:

3 21627. (a) As used in this article, “tangible personal
4 property” means personal property that may be seen, weighed,
5 measured, felt, or touched or that is in any other way perceptible
6 to the senses.

7 (b) “Tangible personal property” also includes the following:

8 (1) All tangible personal property, new or used, including
9 motor vehicles, received in pledge as security for a loan by a
10 pawnbroker.

11 (2) All tangible personal property that bears a serial number or
12 personalized initials or inscription that is purchased by a
13 secondhand dealer or a pawnbroker or that, at the time of the
14 purchase, bears evidence of having had a serial number or
15 personalized initials or inscription.

16 (3) Any business machine, including, but not limited to,
17 typewriters; adding machines; check-writing devices; cash
18 registers; calculators; addressing machines; desktop, laptop, or
19 rack-mounted computers; copying and accounting equipment;
20 letter-sorting and folding devices; computer printers; digital data
21 recording or transmission equipment; and multiline telephone
22 equipment. A “business machine” does not include office
23 equipment or fixtures or a machine taken solely for the purpose of
24 repair and for which the machine is to be returned to the owner by
25 the same business machine dealer who sold the owner that machine
26 when it was new.

27 (c) As used in this article, “tangible personal property” does
28 not include any of the following:

29 (1) Chattel paper, documents of title, instruments, securities,
30 and money.

31 (2) New goods or merchandise purchased by a secondhand
32 dealer from a bona fide manufacturer or distributor or wholesaler
33 of those new goods or merchandise. For the purposes of this
34 article, however, a secondhand dealer shall retain for one year
35 from the date of purchase, and shall make available for inspection
36 by any law enforcement officer, any receipt, invoice, bill of sale
37 or other evidence of purchase of ~~such~~ *those* new goods or
38 merchandise.

39 (3) Coins, monetized bullion, or commercial grade ingots of
40 gold, silver, or other precious metals. “Commercial grade ingots”

1 means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine
2 sterling silver art bars and medallions, if the ingots, art bars, and
3 medallions are marked by the refiner or fabricator as to their assay
4 fineness.

5 SEC. 5. Section 21628 of the Business and Professions Code
6 is amended to read:

7 21628. (a) Unless exempt under Section 21628.2, a
8 secondhand dealer, coin dealer, or business machine dealer
9 described in Section 21626 shall report to the Department of
10 Justice every article of tangible personal property he or she
11 acquired by pledge, purchase, or trade or accepted for sale on
12 consignment or for auction from an individual. The report shall be
13 transmitted daily, or on the first working day after receipt or
14 purchase of the property, on forms either approved or provided at
15 actual cost by the Department of Justice or by the electronic data
16 reporting system described in Section 21632. The report shall
17 account for all tangible personal property that he or she has
18 purchased, taken in trade, taken in pawn, accepted for sale on
19 consignment, or accepted for auctioning.

20 (b) If a report of the acquisition of tangible personal property
21 is made other than by the electronic data reporting transmission
22 system, the report shall be delivered to the chief of police or to the
23 sheriff of the local agency where the secondhand dealer, coin
24 dealer, or business machine dealer is licensed to do business, in
25 accordance with the provisions of Sections 21630 and 21633.

26 (c) On and after January 1, 2008, every transaction report for
27 tangible personal property required under this section shall be
28 made exclusively through the electronic data reporting system as
29 provided by Section 21632.

30 (d) Whether the report of the acquisition of tangible personal
31 property is made on a form approved by the Department of Justice
32 or through the electronic data reporting system, every report shall
33 be legible, prepared in English, completed where applicable, and
34 include, but not be limited to, the following information:

35 (1) The name and current address of the intended seller,
36 pledgor, or consignor of the property that was received.

37 (2) The identification of the intended seller, pledgor, or
38 consignor of the property.

39 (3) A complete and reasonably accurate description of the
40 property complying with the requirements of Section 21628.1.

1 (4) A certification by the intended seller, pledgor, or consignor
2 that he or she is the owner of the property or has the authority to
3 sell, pledge, or consign the property.

4 (5) A certification by the intended seller, pledgor, or consignor
5 that he or she has not at the time of the sale, pledge, or
6 consignment, conveyed a right to, or granted a lien against, the
7 property.

8 (6) A certification by the intended seller, pledgor, or consignor
9 that to his or her knowledge and belief, the information is true and
10 complete.

11 (7) A legible fingerprint taken from the intended seller,
12 pledgor, or consignor either affixed to the form approved by the
13 Department of Justice or in an electronic format consistent with the
14 requirements of the electronic data reporting system.

15 (e) Any person who conducts business as a secondhand dealer
16 at any gun show or event, as defined in Section 478.100 of Title
17 27 of the Code of Federal Regulations, or its successor, outside the
18 jurisdiction that issued the secondhand dealer license in
19 accordance with subdivision (d) of Section 21641 and who reports
20 in a manner other than via the electronic data reporting system
21 under Section 21632, may be required to submit a duplicate of the
22 transaction report prepared pursuant to this section to the local law
23 enforcement agency where the gun show or event is conducted. If
24 the secondhand dealer reports via the electronic data reporting
25 system, he or she shall delineate the transactions conducted at the
26 gun show or event from the transactions that occurred at his or her
27 regular place of business. The dealer shall denote the transactions
28 that occurred during the gun show or event and list on the report
29 the name of the city, county, or city and county where the gun show
30 or event was conducted.

31 SEC. 6. Section 21628.1 of the Business and Professions
32 Code is repealed.

33 SEC. 7. Section 21628.1 is added to the Business and
34 Professions Code, to read:

35 21628.1. (a) When a secondhand dealer, coin dealer, or
36 business machine dealer, as described in Section 21626, reports an
37 acquisition of tangible personal property, as required by Section
38 21628, the dealer shall comply with the following requirements in
39 completing the report:

(1) The identification of the seller, pledgor, or consignor of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, if the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number:

- (A) A passport of the United States.
- (B) A driver's license issued by any state or Canada.
- (C) An identification card issued by any state.
- (D) An identification card issued by the United States.
- (E) A passport from any other ~~county~~ country in addition to another item of identification bearing an address.

(2) The report shall provide a complete and reasonably accurate description of serialized property, including, but not limited to, the following: a serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's name brand, and model name or number. A watch need not be disassembled if special skill or special tools are required to obtain the required information, unless specifically requested by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument, and disassembling a watch with a penknife, caseknife, or similar instrument does not constitute a special skill. The watchband shall be removed if the required information may be obtained by its removal. The cost associated with opening the watch shall be borne by the pawnbroker, dealer, or customer.

(3) The report shall provide a complete and reasonably accurate description of nonserialized property, including, but not limited to, the following: size, color, material, manufacturer's pattern name (when known), owner-applied numbers and personalized inscriptions, and other identifying marks or symbols. A watch need not be disassembled if special skill or special tools are required to obtain the required information, unless specifically requested by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument, and disassembling a watch with a penknife, caseknife, or similar instrument, does not constitute a special skill. The watchband shall be removed if the required information may be obtained by its removal. The cost

1 associated with opening the watch shall be borne by the
2 pawnbroker, dealer, or customer.

3 (b) Notwithstanding Section 21628, a dealer who reports
4 transactions other than by the electronic data reporting system
5 described in Section 21632 is not required to submit the report to
6 the local law enforcement agency if the report of an acquisition of
7 the same property from the same customer has been submitted
8 within the preceding 12 months, unless submission of the report
9 is specifically requested in writing by the local licensing authority
10 or the property is a firearm.

11 SEC. 8. Section 21628.2 is added to the Business and
12 Professions Code, to read:

13 21628.2. (a) A secondhand dealer, coin dealer, or business
14 machine dealer, as described in Section 21626, who engages in less
15 than 10 transactions each week in which he or she has purchased,
16 taken in trade, taken in pawn, accepted for sale or consignment, or
17 accepted for auctioning, tangible personal property, and for which
18 the aggregate value does not exceed one thousand dollars (\$1,000)
19 in any single week, shall report the information required by
20 Section 21628 on a form developed by the Attorney General. The
21 dealer shall transmit a completed and approved form each day by
22 facsimile transmission or by mail to the chief of police or sheriff
23 of the local agency in which the secondhand dealer, coin dealer, or
24 business machine dealer is licensed to do business.

25 (b) A transaction shall consist of not more than one item.
26 Nothing in this section shall prohibit up to 10 transactions with the
27 same customer per week if the cumulative total per week for all
28 customers does not exceed 10 transactions or one thousand dollars
29 (\$1,000) in aggregate value. For purposes of this subdivision,
30 “item” means any single physical article. However, with respect
31 to a commonly accepted grouping of articles that are purchased as
32 a set, including, but not limited to, a pair of earrings or place
33 settings of china, silverware, or other tableware, “item” shall
34 mean that commonly accepted grouping.

35 (c) Until the Attorney General develops the form described in
36 subdivision (a), dealers shall continue to report information
37 required by this section using existing forms and procedures. If
38 these transactions exceed 10 per week, or one thousand dollars
39 (\$1,000) in aggregate value per week, the dealer shall report using
40 the format described in Section 21628 beginning six months after



1 his or her reportable acquisitions exceed 10 transactions or one
2 thousand dollars (\$1,000) in aggregate value per week.

3 (d) Nothing in this section shall be construed as excepting a
4 dealer from the fingerprint requirement of paragraph (7) of
5 subdivision (d) of Section 21628.

6 (e) The local law enforcement agency may enter the
7 information provided by the reporting dealer into the electronic
8 data reporting system once that system is operational and assess
9 the dealer a fee not to exceed fifty cents (\$0.50) per report.

10 SEC. 9. Section 21628.3 is added to the Business and
11 Professions Code, to read:

12 21628.3. (a) When a secondhand dealer, coin dealer, or
13 business machine dealer, as described in Section 21626, complies
14 with all of the provisions of Sections 21628, 21628.1, and ~~26128.2~~
15 ~~21628.2~~, he or she shall be deemed to have received from the seller,
16 pledgor, or consignor adequate evidence of authority to sell or
17 pledge the property for all purposes included in this article and in
18 Division 8 (commencing with Section 21000) of the Financial
19 Code.

20 (b) It is the intent of the Legislature that the provisions of this
21 section shall not adversely affect the implementation of, or
22 prosecution under, any provision of the Penal Code, nor
23 compromise any right of privacy accorded to the consumer or the
24 dealer, as described in Section 21626, under any state or federal
25 law.

26 (c) This article shall be construed liberally to effectuate the
27 legislative intent to create and to implement by January 1, 2008,
28 a uniform, statewide electronic data reporting system for the
29 reporting of transactions required by this article.

30 SEC. 10. Section 21628.5 of the Business and Professions
31 Code is amended to read:

32 21628.5. (a) Every business machine dealer who reports
33 transactions other than via the electronic data reporting system,
34 shall report all used business machines that he or she has
35 purchased, taken in trade, or accepted for sale or consignment,
36 from an individual, to the chief of police or to the sheriff in
37 accordance with the provisions of ~~Section 21628 and Section~~
38 ~~Sections 21628 and~~ 21630.

1 Every business machine dealer shall report all used business
2 machines that he or she has repaired in accordance with the
3 provisions of Section 21628 and Section 21630.

4 (b) No report of repair shall be required from a dealer servicing
5 or repairing a machine in the possession of the owner to whom that
6 dealer sold that machine when it was new.

7 (c) The local law enforcement agency may enter the
8 information provided by the reporting dealer into the electronic
9 data reporting system once that system is operational and assess
10 the dealer a fee not to exceed fifty cents (\$0.50) per report.

11 SEC. 11. Section 21630 of the Business and Professions Code
12 is amended to read:

13 21630. A report required by this article made other than
14 through the electronic data reporting system shall be submitted to
15 the police chief executive of the city or his or her designee if the
16 transaction takes place within the territorial limits of an
17 incorporated city. If the transaction takes place outside the
18 territorial limits of an incorporated city, the report shall be
19 submitted to the sheriff of the county or his or her designee.

20 SEC. 12. Section 21631 of the Business and Professions Code
21 is amended to read:

22 21631. Notwithstanding any other provisions of law, all
23 tangible personal property that is found in the shop of a
24 pawnbroker, secondhand dealer, or coin dealer; doing business
25 under a California secondhand dealer's license, shall be reported
26 as required under Section 21628 and shall be held as required
27 under Section 21636 on forms as required under Section 21633.
28 If no claim is made for the property for a period of 60 days after
29 it is reported, the pawnbroker, secondhand dealer, or coin dealer
30 may treat the property as property regularly acquired in the due
31 course of business.

32 SEC. 13. Section 21632 is added to the Business and
33 Professions Code, to read:

34 21632. (a) On or before January 1, 2006, the Attorney
35 General shall, in consultation with appropriate local law
36 enforcement agencies and representatives of the dealers described
37 in Section 21626 and of pawnbrokers, as defined in Section 21000
38 of the Financial Code, complete the following duties:

39 (1) Develop clear and comprehensive descriptive categories
40 denoting tangible personal property subject to the reporting



requirements of Section 21628. These categories shall be incorporated by a secondhand dealer, coin dealer, and business machine dealer described in Section 21626 for purposes of the reporting requirements set forth in Section 21628.

(2) Establish a standard format to be used statewide to transmit the transaction report required by Section 21628 electronically via the electronic data reporting system.

(3) Either certify that the Department of Justice will be the exclusive operator of the electronic data reporting system described in this section or that it will contract with an independent, third-party contractor to operate the electronic data reporting system.

(b) On or before January 1, 2007, a uniform, statewide electronic data reporting system shall be operational. The system shall electronically receive all transaction reports required under Section 21628 from dealers described in Section 21626 and from pawnbrokers defined in Section 21000 of the Financial Code. The electronic data reporting system shall effectively interface with the stolen, embezzled, or lost property systems of state and local law enforcement agencies to achieve the legislative intent expressed in Section 21625. Authorized inquiries by local law enforcement agencies shall be processed by the electronic data reporting system in a manner that is consistent with the privacy protections accorded consumers and businesses under state and federal law.

(c) On or before January 1, 2008, the electronic data reporting system shall exclusively accept all transaction reports required by Section 21628 by electronic means. Reports required under Section ~~26128.5~~ 21628.5 may continue to be submitted using forms approved by the Department of Justice.

(d) The electronic data reporting system may be operated or administered by an independent third-party vendor who may be awarded a contract for the implementation and operation of the system.

SEC. 14. Section 21636.7 is added to the Business and Professions Code, to read:

21636.7. Notwithstanding any other provision of law, a person who advertises or displays a sign or card or other device indicating to the public that he or she is a secondhand dealer, coin dealer, or business machine dealer, or who causes his or her name or business name to be included in a classified advertisement or

1 directory under a classification for a secondhand dealer, coin
2 dealer, or business machine dealer, is subject to the provisions of
3 this article.

4 SEC. 15. Section 21636.8 is added to the Business and
5 Professions Code, to read:

6 21636.8. (a) It is a misdemeanor for any person to advertise
7 as a secondhand dealer, coin dealer, or business machine dealer, as
8 described in Section 21626, unless that person holds a valid license
9 as that type of dealer, under this article.

10 (b) “Advertise” as used in this section includes, but is not
11 limited to, the issuance of a card, sign, or device to any person; the
12 causing, permitting, or allowing of any sign or marking on or in
13 any building or structure or in any newspaper, magazine, or by
14 airwave or any electronic transmission, or in any directory under
15 a listing for a secondhand dealer, coin dealer, or business machine
16 dealer.

17 (c) A violation of this section is punishable by a fine of not less
18 than seven hundred dollars (\$700) and not more than one thousand
19 dollars (\$1,000). The fine may be imposed in addition to any other
20 punishment for a violation of this section.

21 SEC. 16. Section 21640 of the Business and Professions Code
22 is amended to read:

23 21640. (a) It is unlawful for any person to engage in the
24 business of a secondhand dealer, coin dealer, or business machine
25 dealer, as defined in Section 21626, without being licensed as
26 provided in this article.

27 (b) The court may assess a civil penalty in an action brought by
28 a city attorney or district attorney for a violation of this section.

29 (c) A person who has twice been found in violation of this
30 section and who within 10 years of the date of the first offense,
31 engages in any business defined in Section 21626 without holding
32 a current and valid license, is guilty of a misdemeanor punishable
33 by imprisonment in a county jail for a period not exceeding six
34 months or by a fine not exceeding five thousand dollars (\$5,000),
35 or by both that fine and imprisonment.

36 (d) All civil penalties, forfeited bail amounts, and fines
37 received by a court pursuant to this section shall be deposited with
38 the county treasurer of the county in which the court is situated.
39 Fifty percent of these amounts shall be allocated to the State
40 Treasury, and 50 percent shall be delivered to the city treasurer of

1 the city, if the offense occurred in a city, or otherwise to the
2 treasurer of the county in which the prosecution is conducted.

3 SEC. 17. Section 21641 of the Business and Professions Code
4 is amended to read:

5 21641. (a) The chief of police, the sheriff, or, where
6 appropriate, the police commission, shall accept an application for
7 and grant a license permitting the licensee to engage in the business
8 of a secondhand dealer, coin dealer, or business machine dealer, as
9 defined in Section 21626, to an applicant who has not been
10 convicted of an attempt to receive stolen property or any other
11 offense involving stolen property. Prior to the granting of a license,
12 the licensing authority shall submit the application to the
13 Department of Justice. If the Department of Justice does not
14 comment on the application within 30 days thereafter, the
15 licensing authority may grant the applicant a license. All forms for
16 application and licensure, and license renewal, shall be prescribed
17 and provided by the Department of Justice.

18 (b) For the purposes of this section, “convicted” means a plea
19 or verdict of guilty or a conviction following a plea of nolo
20 contendere.

21 (c) Notwithstanding subdivisions (a) and (b), no person shall
22 be denied a secondhand dealer’s license solely on the grounds that
23 he or she violated any provision contained in Article 4
24 (commencing with Section 21625) or Article 5 (commencing with
25 Section 21650) of this chapter, or any provision contained in
26 Chapter 2 (commencing with Section 21200) of Division 8 of the
27 Financial Code, unless the violation demonstrates a pattern of
28 conduct.

29 (d) Any person licensed as a firearms dealer pursuant to Section
30 12071 of the Penal Code, who is conducting business at gun shows
31 or events pursuant to subparagraph (B) of paragraph (1) of
32 subdivision (b) of Section 12071 of the Penal Code, and who has
33 a valid secondhand dealer license granted by the appropriate local
34 authorities in the jurisdiction where the firearms dealer license has
35 been granted, shall be authorized to conduct business as a
36 secondhand dealer at any gun show or event, as defined in Section
37 478.100 of Title 27 of the Code of Federal Regulations, or its
38 successor, without regard to the jurisdiction within this state that
39 issued the secondhand dealer license pursuant to subdivision (a) of
40 this section. No additional fees or separate secondhand dealer

1 license shall be required by any agency having jurisdiction over
2 the locality where the gun show or event is conducted. However,
3 the person shall otherwise be subject to, and comply with, the
4 requirements of this article when he or she acts as a secondhand
5 dealer at the gun show or event to the same extent as if he or she
6 were licensed as a secondhand dealer in the jurisdiction in which
7 the gun show or event is being conducted.

8 (e) Each applicant for a license described in this section shall
9 pay an initial processing fee not to exceed fifty dollars (\$50) to
10 cover the actual costs of processing the application, and each
11 licensee shall pay a license issuance fee in the amount of one
12 hundred dollars (\$100).

13 (f) All fees described in subdivision (e) shall be deposited in the
14 State Treasury and credited to the Electronic Data Reporting
15 System Fund, which is hereby created. The revenue in the fund ~~is~~
16 ~~continuously appropriated~~ *shall be available to the Department of*
17 *Justice upon appropriation by the Legislature in the annual*
18 *Budget Act solely for the sole purpose purposes of implementing*
19 *and maintaining the electronic data reporting system described in*
20 *Section 21632 and for reimbursing the local licensing authority*
21 *for the actual costs of processing the initial license and the renewal*
22 *applications.*

23 SEC. 18. Section 21642 of the Business and Professions Code
24 is amended to read:

25 21642. (a) A license granted pursuant to Section 21641 shall
26 be renewable the second year from the date of issue, and every
27 other year thereafter, upon the filing of a renewal application and
28 the payment of a license renewal fee in the amount of one hundred
29 dollars (\$100). The fee charged shall increase at a rate not to
30 exceed the legislatively approved annual cost-of-living
31 adjustments for the department's budget. The licensing authority
32 shall collect the fee and transmit the fee and a copy of the renewed
33 license to the Department of Justice. The fee shall be deposited into
34 the Electronic Data Reporting System Fund pursuant to Section
35 21641.

36 (b) The license shall be subject to forfeiture by the licensing
37 authority, and the licensee's activities as a secondhand dealer shall
38 be subject to being enjoined pursuant to Section 21646 for breach
39 of any of the following conditions:

1 (1) The business shall be carried on only at the location
2 designated on the license. The license shall designate all locations
3 where property belonging to the business is stored. Property of the
4 business may be stored at locations not designated on the license
5 only with the written consent of the local licensing authority.

6 (2) The license or a copy thereof, certified by the licensing
7 authority, shall be displayed on the premises in plain view of the
8 public.

9 (3) The licensee shall not engage in any act that the licensee
10 knows to be in violation of this article.

11 (4) The licensee shall not be convicted of an attempt to receive
12 stolen property or any other offense involving stolen property. For
13 the purposes of this paragraph, “convicted” means a plea or
14 verdict of guilty or a conviction following a plea of nolo
15 contendere. Any action that the chief of police, the sheriff, or,
16 where appropriate, the police commission, is permitted to take
17 following the establishment of a conviction may be taken when the
18 time for appeal has elapsed, or the judgment of conviction has been
19 affirmed on appeal, or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a
21 subsequent order under the provisions of Section 1203.4 of the
22 Penal Code.

23 (c) Notwithstanding subdivisions (a) and (b), no person shall
24 have his or her renewal application for a secondhand dealer’s
25 license denied, nor shall his or her secondhand dealer’s license be
26 forfeited solely on the grounds that he or she violated any
27 provision contained in Article 4 (commencing with Section
28 21625) or Article 5 (commencing with Section 21650) of this
29 chapter, or any provision contained in Chapter 2 (commencing
30 with Section 21200) of Division 8 of the Financial Code, unless the
31 violation demonstrates a pattern of conduct.

32 SEC. 19. Section 21647 of the Business and Professions Code
33 is amended to read:

34 21647. (a) Whenever any peace officer has probable cause to
35 believe that property, except coins, monetized bullion, or
36 “commercial grade ingots” as defined in paragraph (3) of
37 subdivision (c) of Section 21627, in the possession of a
38 pawnbroker, secondhand dealer, or coin dealer is stolen, the peace
39 officer may place a hold on the property for a period not to exceed
40 90 days. When a peace officer places a hold on the property, the

1 peace officer shall give the pawnbroker, secondhand dealer, or
2 coin dealer a written notice at the time the hold is placed,
3 describing the item or items to be held. During that period the
4 pawnbroker, secondhand dealer, or coin dealer shall not release or
5 dispose of the property, except pursuant to a court order or upon
6 receipt of a written authorization signed by any peace officer who
7 is a member of the law enforcement agency of which the peace
8 officer placing the hold on the property is a member. A
9 pawnbroker, secondhand property dealer, or coin dealer shall not
10 be subject to civil liability for compliance with this section.

11 (b) Whenever property that is in the possession of a
12 pawnbroker, secondhand dealer, or coin dealer, whether or not the
13 property has been placed on hold, is required by a peace officer in
14 a criminal investigation, the pawnbroker, secondhand dealer, or
15 coin dealer, upon reasonable notice, shall produce the property at
16 reasonable times and places or may deliver the property to the
17 peace officer upon the request of any peace officer.

18 (c) Whenever a law enforcement agency has knowledge that
19 property in the possession of a pawnbroker, secondhand dealer, or
20 coin dealer has been reported as lost or stolen, the law enforcement
21 agency shall notify in writing the person who reported the property
22 as lost or stolen of the following:

23 (1) The name, address, and telephone number of the
24 pawnbroker, secondhand dealer, or coin dealer who reported the
25 acquisition of the property.

26 (2) That the law neither requires nor prohibits payment of a fee
27 or any other condition in return for the surrender of the property,
28 except that when the person who reported the property lost or
29 stolen does not choose to participate in the prosecution of an
30 identified alleged thief, the person shall pay the pawnbroker,
31 secondhand dealer, or coin dealer the “out-of-pocket” expenses
32 paid in the acquisition of the property in return for the surrender
33 of the property.

34 (3) That if the person who reported the property as lost or stolen
35 takes no action to recover the property from the pawnbroker,
36 secondhand dealer, or coin dealer within 60 days of the mailing of
37 the notice, the pawnbroker, secondhand dealer, or coin dealer may
38 treat the property as other property received in the ordinary course
39 of business. During the 60-day notice period, the pawnbroker,

1 secondhand dealer, or coin dealer may not release the property to
2 any other person.

3 (4) That a copy of the notice, with the address of the person who
4 reported the property as lost or stolen deleted, will be mailed to the
5 pawnbroker, secondhand dealer, or coin dealer who is in
6 possession of the property.

7 (d) When property that is in the possession of a pawnbroker,
8 secondhand dealer, or coin dealer is subject to a hold as provided
9 in subdivision (a), and the property is no longer required for the
10 purpose of a criminal investigation, the law enforcement agency
11 that placed the hold on the property shall release the hold on the
12 property. When the law enforcement agency has knowledge that
13 the property has been reported lost or stolen, the law enforcement
14 agency shall then make notification to the person who reported the
15 property as lost or stolen pursuant to subdivision (c).

16 (e) If a pledgor seeks to redeem property that is subject to a
17 hold, the pawnbroker shall advise the pledgor of the name of the
18 peace officer who placed the hold on the property and the name of
19 the law enforcement agency of which the officer is a member. If
20 the property is not required to be held pursuant to a criminal
21 prosecution the hold shall be released.

22 (f) Whenever information regarding allegedly lost or stolen
23 property is entered into the Department of Justice automated
24 property system or automated firearms system, and the property
25 is thereafter identified and found to be in the possession of a
26 pawnbroker, secondhand dealer, or coin dealer, and the property
27 is thereafter placed on a hold pursuant to this section and the hold,
28 including any additional hold, is allowed to lapse, or 60 days
29 elapse following the delivery of the notice required to be given by
30 this section to the person who reported the property to be lost or
31 stolen without a claim being made by that person, whichever is
32 later, the pawnbroker, secondhand dealer, or coin dealer may mail
33 under a Certificate of Mailing issued by the United States Post
34 Office, addressed to the law enforcement agency that placed the
35 property on hold, a written request to delete the property listing
36 from the Department of Justice automated property system or
37 automated firearms system, as is applicable. Within 30 days after
38 the request has been mailed, the law enforcement agency shall
39 either cause the property listing to be deleted as requested or place
40 a hold on the property. If no law enforcement agency takes any

1 further action with respect to the property within 45 days after the
2 mailing of the request, the pawnbroker, secondhand dealer, or coin
3 dealer may presume that the property listing has been deleted as
4 requested and may thereafter deal with the property accordingly,
5 and shall not be subject to liability arising from the failure of the
6 removal of the property listing from the Department of Justice
7 automated property system or automated firearms system.

8 (g) Nothing in this section shall be construed to alter the
9 authority of a peace officer to seize property pursuant to any other
10 provision of statutory or case law.

11 SEC. 20. Section 21208 of the Financial Code is amended to
12 read:

13 21208. (a) Every pawnbroker shall report daily or on the first
14 working day after receipt or purchase, all descriptions of all
15 property received in pledge or purchased as tangible personal
16 property, as defined in Section 21627 of the Business and
17 Professions Code, in whatever quantity received, including
18 tangible personal property taken in for sale or possessed on
19 consignment for sale, and tangible personal property taken in
20 trade.

21 (b) (1) If the transaction took place within the territorial limits
22 of an incorporated city, the report shall be submitted to the police
23 chief executive of the city or his or her designee, by mail unless
24 otherwise agreed upon by the pawnbroker and the police chief
25 executive or his or her designee. If the transaction took place
26 outside the territorial limits of an incorporated city, the report shall
27 be submitted to the sheriff of the county, or his or her designee, by
28 mail unless otherwise agreed upon by the pawnbroker and the
29 sheriff or his or her designee.

30 (2) All reports shall be on forms approved or provided at actual
31 cost by the Department of Justice. The police chief executive or
32 sheriff who receives a report on a form filed pursuant to the
33 provisions of this section shall daily submit a legible copy of the
34 transactions to the Department of Justice.

35 (c) On and after January 1, 2008, every report required under
36 this section shall be made exclusively through the electronic data
37 reporting system described in Section 21632 of the Business and
38 Professions Code.

39 (d) Notwithstanding any other provision of law, a pawnbroker
40 who engages in less than 10 transactions each week in which he or

1 she has purchased, taken in trade, taken in pawn, accepted for sale
2 or consignment, or accepted for auctioning, tangible personal
3 property and for which the aggregate value does not exceed one
4 thousand dollars (\$1,000) in any single week, shall report the
5 information required by this section on a form developed by the
6 Attorney General. The pawnbroker shall transmit a completed and
7 approved form each day by facsimile transmission or by mail to the
8 chief of police or sheriff of the local law enforcement agency for
9 the jurisdiction where his or her business is licensed.

10 SEC. 21. Section 21300 of the Financial Code is amended to
11 read:

12 21300. (a) The chief of police, the sheriff, or, where
13 appropriate, the police commission, shall accept an application for
14 and grant a license permitting the licensee to engage in the business
15 of pawnbroker, as defined in Section 21000, at the address
16 indicated on the application, to an applicant who has complied
17 with the requirements of Sections 21303, 21304, and 21305 and
18 has not been convicted of an attempt to receive stolen property or
19 any other offense involving stolen property. Prior to the granting
20 of a license, the licensing authority shall submit the application to
21 the Department of Justice. If the Department of Justice does not
22 comment on the application within 30 days thereafter, the
23 licensing authority shall grant the applicant a license. All forms for
24 application and licensure, and license renewal, shall be prescribed
25 and provided by the Department of Justice.

26 (b) For the purposes of this section, “convicted” means a plea
27 or verdict of guilty or a conviction following a plea of nolo
28 contendere.

29 (c) Notwithstanding subdivisions (a) and (b), no person shall
30 be denied a pawnbroker’s license solely on the grounds that he or
31 she violated any provision contained in Chapter 1 (commencing
32 with Section 21000) or Chapter 2 (commencing with Section
33 21200) of this division or Article 4 (commencing with Section
34 21625) or Article 5 (commencing with Section 21650) of Chapter
35 9 of Division 8 of the Business and Professions Code unless the
36 violation demonstrates a pattern of conduct.

37 (d) Each applicant for a license described in this section shall
38 pay an initial processing fee of fifty dollars (\$50) to cover the
39 actual costs of processing the application, and each licensee shall
40 pay a license issuance fee of one hundred dollars (\$100). These

1 fees shall be deposited in the Electronic Data Reporting System
2 Fund created pursuant to Section 21641 of the Business and
3 Professions Code.

4 SEC. 22. Section 21300.1 of the Financial Code is amended
5 to read:

6 21300.1. (a) It is unlawful for any person who is not duly
7 licensed under this section to act as a pawnbroker or represent
8 himself, herself, or a business entity to be a pawnbroker or a
9 pawnbrokerage business entity.

10 (b) In an action brought by a city attorney or district attorney
11 for a violation of this section, a civil penalty may be assessed in the
12 amount of not more than one thousand dollars (\$1,000) for the first
13 offense and not more than five thousand dollars (\$5,000) for the
14 second offense. Any person who has twice been found in violation
15 of this section and who within 10 years of the date of the first
16 offense engages in any business of a pawnbroker without holding
17 a current and valid license pursuant to this article, is guilty of a
18 misdemeanor punishable by imprisonment in a county jail for a
19 period not exceeding six months or by a fine not exceeding five
20 thousand dollars (\$5,000), or by both that fine and imprisonment.

21 (c) All civil penalties, forfeited bail amounts, or fines received
22 by a court pursuant to this section shall, as soon as practicable after
23 their receipt, be deposited with the county treasurer of the county
24 in which the court is situated. Upon deposit, 50 percent of these
25 amounts shall be delivered to the State Treasury, and 50 percent
26 shall be delivered to the city treasurer of the city, if the offense
27 occurred in a city, or otherwise to the treasurer of the county in
28 which the prosecution is conducted.

29 SEC. 23. Section 21301 of the Financial Code is amended to
30 read:

31 21301. (a) A license granted pursuant to Section 21300 shall
32 be renewable the second year from the date of issue, and every
33 other year thereafter, upon the filing of a renewal application and
34 compliance with the requirements of Section 21303. The
35 Department of Justice and the chief of police, the sheriff, or, where
36 appropriate, the police commission may charge a fee in the amount
37 of one hundred dollars (\$100) for the license renewal. The
38 licensing authority shall collect the fee and transmit the fee and a
39 copy of the renewed license to the Department of Justice. The fee
40 shall be deposited into the Electronic Data Reporting System Fund

1 created pursuant to Section 21641 of the Business and Professions
2 Code.

3 (b) The license shall be subject to forfeiture by the licensing
4 authority, and the licensee's activities as a pawnbroker shall be
5 subject to being enjoined pursuant to Section 21302, for breach of
6 any of the following conditions:

7 (1) The business shall be carried on only at the location
8 designated on the license. The license shall designate all locations
9 where property belonging to the business is stored. Property of the
10 business may be stored at locations not designated on the license
11 only with the written consent of the local licensing authority.

12 (2) The license or a copy thereof, certified by the licensing
13 authority, shall be displayed on the premises in plain view of the
14 public.

15 (3) The licensee shall not engage in any act that the licensee
16 knows to be in violation of this article.

17 (4) The licensee shall not be convicted of an attempt to receive
18 stolen property or other offense involving stolen property. For the
19 purposes of this paragraph, "convicted" means a plea or verdict
20 of guilty or a conviction following a plea of nolo contendere. Any
21 action that the chief of police, the sheriff, or, where appropriate,
22 the police commission, is permitted to take following that
23 conviction may be taken when the time for appeal has elapsed, the
24 judgment of conviction has been affirmed on appeal, or an order
25 granting probation is made suspending the imposition of sentence,
26 irrespective of a subsequent order under Section 1203.4 of the
27 Penal Code.

28 (c) Notwithstanding subdivisions (a) and (b), no renewal
29 application for a pawnbroker's license may be denied, nor may his
30 or her pawnbroker's license be forfeited, solely on the grounds that
31 the applicant violated any provision contained in Chapter 1
32 (commencing with Section 21000), Chapter 2 (commencing with
33 Section 21200) of this division, or Article 4 (commencing with
34 Section 21625) or Article 5 (commencing with Section 21650) of
35 Chapter 9 of Division 8, of the Business and Professions Code
36 unless the violation demonstrates a pattern of conduct.

37 SEC. 24. Section 21301.2 is added to the Financial Code, to
38 read:

39 21301.2. Notwithstanding the exemptions described in
40 Article 2 (commencing with Section 21050), a person who

1 advertises or displays a sign or card or other device that indicates
2 to the public that he or she is a pawnbroker, or who causes his or
3 her name or business name to be included in a classified
4 advertisement or directory under a classification for pawnbroker,
5 is subject to the provisions of this chapter.

6 SEC. 25. Section 21301.3 is added to the Financial Code, to
7 read:

8 21301.3. (a) It is a misdemeanor for a person to advertise as
9 a pawnbroker unless he or she holds a valid license as that type of
10 dealer under this chapter. "Advertise," as used in this section,
11 includes, but is not limited to, the issuance of a card, sign, or device
12 to any person; the causing, permitting, or allowing of any sign or
13 marking on or in any building or structure, or in any newspaper,
14 magazine, or by airwave or electronic transmission, or in any
15 directory under a listing for pawnbroker, as defined in Section
16 21000.

17 (b) A violation of this section is punishable by a fine of not less
18 than seven hundred dollars (\$700) and not more than one thousand
19 dollars (\$1,000). This fine may be imposed in addition to any other
20 punishment imposed for a violation of this section.

21 SEC. 26. No reimbursement is required by this act pursuant
22 to Section 6 of Article XIII B of the California Constitution for
23 certain costs that may be incurred by a local agency or school
24 district because in that regard this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

30 However, notwithstanding Section 17610 of the Government
31 Code, if the Commission on State Mandates determines that this
32 act contains other costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code. If the statewide cost of the
36 claim for reimbursement does not exceed one million dollars
37 (\$1,000,000), reimbursement shall be made from the State
38 Mandates Claims Fund.